HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.NO. 12645 OF 1999

DATED: 14.6.2007

Between:

Maddali Narasimha Murthy

… Petitioner

and

Special Deputy Collector (Tribal Welfare),
Kotaramachandrapuram, West Godavari
District

… Respondent

HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.NO. 12645 OF 1999

ORAL ORDER:

This writ petition is filed seeking a writ of Mandamus declaring the action of the respondent in issuing a notice dated 11.3.1999 to the petitioner as arbitrary, illegal and consequently to direct the respondent not to dispossess the petitioner from the lands covered by R.S.No.190 in an extent of Ac.4.20 cents, situated at Dondapudi of Polavaram Mandal, West Godavari District.

It is the case of the petitioner that he is the absolute owner and possessor of the aforementioned land and has been in peaceful possession and enjoyment of the same since times immemorial. However, the Special Deputy Tahsildar (Tribal Welfare), Eluru, lodged a complaint before the Special Deputy Collector (Tribal Welfare), Eluru, alleging that the petitioner was in possession of the above-said lands, in contravention of the provisions of the Andhra Pradesh Scheduled Areas Land Transfer Regulation 1 of 1959, as amended by Regulation 1 of 1970 (for short 'the Regulation') and the Agency Tracts Interest and Land Transfer Act, 1917 (for short 'the Act'), which was

numbered as S.R.No.290 of 1982. The Special Deputy Collector (Tribal Welfare), Eluru, held a detailed enquiry and thereafter, by his order dated 21.2.1983, gave a finding that there is no violation of the provisions of the said Regulation or the Act and thus disallowed the said complaint filed by the Special Deputy Tahsildar. Against the said order, the Special Deputy Tahsildar has not filed any appeal and the said order attained finality.

While the matter stood thus, the Special Deputy Collector (Tribal Welfare), Kotaramachandrapuram, again issued a notice dated 11.3.1999 directing the petitioner to appear before him for an enquiry as the petitioner is having possession of the same, in violation of the provisions of the Regulation and the Act.

Heard the counsel for the parties.

Having examined the issue, since the very same Special Deputy Collector, Tribal Welfare, Eluru (person holding the office may be different) has given a finding that there is no violation of any of the provisions of the Regulation or the Act and disallowed the complaint filed on an earlier occasion, the Special Deputy Tahsildar, who is added as the respondent herein, is precluded from initiating fresh proceedings. If he has any grievance, he could have preferred an appeal against the said order dated 21.2.1983. But without doing so, he is trying to re-open the matter by issuing the impugned notice, which is unwarranted.

Accordingly this writ petition is allowed and the impugned notice dated 11.3.1999 is hereby set aside. There shall be no order as

to costs.

GOPALA KRISHNA TAMADA, J

Date: 14.6.2007
cvm